

AMENDED IN SENATE MAY 24, 2010

AMENDED IN SENATE APRIL 20, 2010

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 1098

Introduced by Senator Corbett

February 17, 2010

An act to amend, repeal, and add Section 6106.7 of, *to add Section 18898 to*, to add Chapter 2.5 (commencing with Section 18900) to, and to repeal Chapter 2.5 (commencing with Section 18895) of, Division 8 of, the Business and Professions Code, relating to athlete agents, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1098, as amended, Corbett. Athlete agents.

Existing law, the Miller-Ayala Athlete Agents Act, regulates specified activities of an athlete agent in representing or seeking to represent student athletes and professional athletes. Under this act, an agent is required to file with the Secretary of State specified information about his or her background, training, and experience and to advise an athlete of the availability of this information. The act also requires the athlete agent to establish a trust fund and deposit into it all funds received on behalf of the athlete. The act includes specified conflict-of-interest provisions pertaining to the activities of an athlete agent. The act imposes additional requirements pertaining to an athlete agent's transactions with a student athlete, specifying the circumstances under which an athlete agent may contact a student athlete or his or her family, and requiring the athlete agent to include a disclosure in a contract with a student athlete, warning the student that he or she may lose eligibility

to compete in interscholastic or intercollegiate sports upon entering into the contract and allowing the student athlete to rescind the contract within 15 days. The act allows for a civil action to recover damages resulting from its violation and makes void any contract that fails to comply with its requirements. The act also makes a violation of its provisions a misdemeanor offense.

This bill would ~~delete~~ *make* the provisions of the Miller-Ayala Athlete Agents Act *inoperative on July 1, 2011, and would repeal those provisions as of January 1, 2012.* The bill would enact the Uniform Athlete Agents Act, which would, *commencing July 1, 2011,* regulate the activities of an athlete agent in soliciting or contracting to represent a student or professional athlete. The bill would prohibit, subject to specified exceptions, a person from acting as an athlete agent without a certificate of registration issued by the Department of Industrial Relations. The bill would make void a contract to represent a student or professional athlete obtained in violation of these registration requirements, and would make voidable, at the athlete's election, an agency contract that does not conform to other provisions of the act. The bill would allow the acceptance of registration as an athlete agent from another state.

This bill would additionally require that a contract between an athlete agent and athlete contain specified provisions. A contract with a student athlete would be required to contain additional provisions, including the right of a student athlete to cancel the contract within 14 days of its execution and a warning that the student may lose his or her eligibility to compete as a student athlete. The bill would require both the agent and student to notify the educational institution in which the student is enrolled within 72 hours of entering into the contract or before the student's next athletic event, whichever occurs first.

This bill would provide for a civil action by a professional athlete, student athlete, or educational institution against an athlete agent for damages resulting from a violation of the requirements of the act. The bill would require an athlete agent to establish a trust fund and deposit into it any payment he or she receives on behalf of a professional athlete. The bill would modify conflict-of-interest provisions with respect to agents representing professional athletes and would incorporate other conflict-of-interest provisions that pertain to the activities of an athlete agent under existing law.

This bill would also prohibit other types of specified conduct by an athlete agent and would make their commission a misdemeanor offense.

Because the bill would create new crimes, it would impose a state-mandated local program. The bill in addition would make the violation of its provisions grounds for the department to revoke or suspend the athlete agent's registration and to excuse payment of the athlete agent under specified contracts.

This bill would, *commencing January 1, 2012*, authorize the department to assess a civil penalty not exceeding \$25,000 against an athlete agent. The bill would provide for the imposition of a fee for registration and renewal. The bill would direct that the fees and civil penalties be deposited into the Athlete Agent Registration Fund, which would be created by the bill. ~~Because the bill would authorize the department to expend the fees in the fund, it would make an appropriation.~~

The bill would declare that its provisions are taken from the Uniform Athlete Agents Act of 2000, drafted by the National Conference of Commissioners on Uniform State Laws, and that uniformity of the law shall be considered when construing the bill's provisions.

~~This bill would provide that it shall become operative on July 1, 2011.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~yes~~ *no*. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6106.7 of the Business and Professions
- 2 Code is amended to read:
- 3 6106.7. (a) It shall constitute cause for the imposition of
- 4 discipline of an attorney within the meaning of this chapter for an
- 5 attorney to violate any provision of the Miller-Ayala Athlete
- 6 Agents Act (Chapter 2.5 (commencing with Section 18895) of
- 7 Division 8) or to violate any provision of the law of any other state
- 8 regulating athlete agents.
- 9 (b) This section shall become inoperative on July 1, 2011, and,
- 10 as of January 1, 2012, is repealed, unless a later enacted statute,
- 11 that becomes operative on or before January 1, 2012, deletes or
- 12 extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 6106.7 is added to the Business and Professions Code, to read:

6106.7. (a) It shall constitute cause for the imposition of discipline of an attorney within the meaning of this chapter for an attorney to violate any provision of the Uniform Athlete Agents Act (Chapter 2.5 (commencing with Section 18900) of Division 8) or to violate any provision of the law of any other state regulating athlete agents.

(b) This section shall become operative on July 1, 2011.

~~SEC. 3. Chapter 2.5 (commencing with Section 18895) of Division 8 of the Business and Professions Code is repealed.~~

SEC. 3. Section 18898 is added to the Business and Professions Code, to read:

18898. This chapter shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Chapter 2.5 (commencing with Section 18900) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 2.5. UNIFORM ATHLETE AGENTS ACT

Article 1. General Provisions

18900. This chapter shall be known and may be cited as the Uniform Athlete Agents Act.

18901. The following definitions apply for the purposes of this chapter:

(a) "Agency contract" means an agreement in which a student or professional athlete authorizes a person to negotiate or solicit on behalf of the student or professional athlete a professional sports services contract or an endorsement contract.

(b) "Athlete agent" means an individual who enters into an agency contract with a student athlete or, directly or indirectly, recruits or solicits a student athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, foster parent, sibling, grandparent, or guardian of the student athlete or an individual acting solely on behalf of a

1 professional sports team or professional sports organization.
2 “Athlete agent” also includes individuals who enter into an agency
3 contract with a professional athlete or directly recruit or solicit a
4 professional athlete to enter into an agency contract. “Athlete
5 agent” does not include a talent agency as defined in subdivision
6 (a) of Section 1700.4 of the Labor Code and licensed by the Labor
7 Commissioner pursuant to Chapter 4 (commencing with Section
8 1700) of Part 6 of Division 2 of the Labor Code that does not
9 directly or indirectly recruit or solicit student athletes to enter into
10 agency contracts, endorsement contracts, or professional sports
11 services contracts, as defined in this chapter.

12 (c) “Athletic director” means an individual responsible for
13 administering the overall athletic program of an educational
14 institution or, if an educational institution has separately
15 administered athletic programs for male students and female
16 students, the athletic program for males or the athletic program
17 for females, as appropriate.

18 (d) “Contact” means a communication, direct or indirect,
19 between an athlete agent and a student or professional athlete, to
20 recruit or solicit the student or professional athlete to enter into an
21 agency contract.

22 (e) “Department” means the Department of Industrial Relations.

23 (f) “Endorsement contract” means an agreement under which
24 a student or professional athlete is employed or receives
25 consideration to use on behalf of the other party any value that the
26 student or professional athlete may have because of publicity,
27 reputation, following, or fame obtained because of athletic ability
28 or performance.

29 (g) “Intercollegiate sport” means a sport played at the collegiate
30 level for which eligibility requirements for participation by a
31 student athlete are established by a national association for the
32 promotion or regulation of collegiate athletics.

33 (h) “Negotiate” means any manner of communication, direct
34 or indirect, by an athlete agent with a professional sports team or
35 organization or other potential employer on behalf of a professional
36 athlete with whom the athlete agent has an agency contract.
37 “Negotiate” also includes an athlete agent being present on behalf
38 of a professional athlete with whom he or she has an agency
39 contract during any discussion of a professional endorsement
40 contract or professional sports service contract with a representative

1 of the professional sports team or organization or the potential or
2 actual employer of the professional athlete.

3 (i) “Person” means an individual, corporation, business trust,
4 estate, trust, partnership, limited liability company, association,
5 joint venture, government, governmental subdivision, agency, or
6 instrumentality, public corporation, or any other legal or
7 commercial entity.

8 (j) “Professional athlete” means an individual who has entered
9 into a valid professional sports service contract, an agency contract
10 for the provision of professional sports services, or an endorsement
11 contract based on athletic ability or performance, or an individual
12 who is otherwise permanently ineligible to participate in a
13 particular intercollegiate sport. “Professional athlete” does not
14 include a student athlete as defined in this chapter, but does include
15 a former student athlete who has previously signed a valid
16 professional sports services, agency, or endorsement contract.

17 (k) “Professional sports services contract” means an agreement
18 under which an individual is employed, or agrees to render services,
19 as a player on a professional sports team, with a professional sports
20 organization, or as a professional athlete.

21 (l) “Record” means information that is inscribed on a tangible
22 medium or that is stored in an electronic or other medium and is
23 retrievable in perceivable form.

24 (m) “Registration” means registration as an athlete agent
25 pursuant to this chapter.

26 (n) “State” means a state of the United States, the District of
27 Columbia, Puerto Rico, the United States Virgin Islands, or any
28 territory or insular possession subject to the jurisdiction of the
29 United States.

30 (o) “Student athlete” means an individual who engages in, is
31 eligible to engage in, or may be eligible in the future to engage in,
32 any intercollegiate sport. If an individual is permanently ineligible
33 to participate in a particular intercollegiate sport, the individual is
34 not a student athlete for purposes of that sport.

35 Article 2. Registration of Athlete Agents

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38 18910. (a) Except as otherwise provided in subdivision (b),
39 an individual may not act as an athlete agent in this state without
40 holding a certificate of registration under Section 18912 or 18914.

(b) Before being issued a certificate of registration, an individual may act as an athlete agent in this state for all purposes except signing an agency contract, if a student or professional athlete or another person acting on behalf of the student or professional athlete initiates communication with the individual, and within seven days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent in this state.

(c) An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under the contract.

18910.5. (a) Upon making first contact with a student or professional athlete or with a relative, cohabitant, or a representative of the student or professional athlete, an athlete agent shall provide that person with a notification in a record stating the following:

“This athlete agent has current public disclosure information on file with the Department of Industrial Relations, as required under California law, which also contains other protections of athletes. Filing of required information does not constitute approval by the Department of Industrial Relations of the competence of this athlete agent.”

(b) This notification shall also contain specific instructions on the procedure to obtain disclosure information from the department.

18911. (a) An applicant for registration shall submit an application for registration to the department in a form prescribed by the department. The application shall be in the name of an individual and, except as otherwise provided in subdivision (b), ~~signed or otherwise authenticated by the applicant under penalty of perjury and state~~ or contain the following information:

(1) The name of the applicant and the address of the applicant’s principal place of business.

(2) The name of the applicant’s business or employer, if applicable.

(3) Any business or occupation engaged in by the applicant for the five years next preceding the date of submission of the application.

1 (4) A description of the applicant's formal training and practical
2 experience as an athlete agent and a description of the applicant's
3 educational background relating to his or her activities as an athlete
4 agent.

5 (5) The names and addresses of three individuals not related to
6 the applicant who are willing to serve as references.

7 (6) The name, sport, and last known team for each individual
8 for whom the applicant acted as an athlete agent during the five
9 years next preceding the date of submission of the application.

10 (7) If a corporation is employing the athlete agent, the names
11 and addresses of all persons who are officers or directors, and the
12 name and address of any shareholder of the corporation having an
13 interest of 5 percent or greater.

14 (8) If the athlete agent's business is other than a corporation,
15 the names and addresses of all persons who are the partners,
16 members, officers, managers, associates, or profit sharers of the
17 business.

18 (9) Whether the applicant or any person named pursuant to
19 paragraph (7) or (8) has been convicted of a crime that, if
20 committed in this state, would be a crime involving moral turpitude
21 or a felony, and identify the crime.

22 (10) Whether there has been any administrative or judicial
23 determination that the applicant or any person named pursuant to
24 paragraph (7) or (8) has made a false, misleading, deceptive, or
25 fraudulent representation.

26 (11) Any instance in which the conduct of the applicant or any
27 person named pursuant to paragraph (7) or (8) resulted in the
28 imposition of a sanction, suspension, or declaration of ineligibility
29 to participate in an interscholastic or intercollegiate athletic event
30 on a student athlete or educational institution.

31 (12) Any sanction, suspension, or disciplinary action taken
32 against the applicant or any person named pursuant to paragraph
33 (7) or (8) arising out of occupational or professional conduct.

34 (13) Whether there has been any denial of an application for,
35 suspension or revocation of, or refusal to renew, the registration
36 or licensure of the applicant or any person named pursuant to
37 paragraph (7) or (8) as an athlete agent in any state.

38 (b) An individual who has submitted an application for, and
39 holds a certificate of, registration or licensure as an athlete agent
40 in another state may submit a copy of the application and certificate

1 in lieu of submitting an application in the form prescribed pursuant
2 to subdivision (a). The department shall accept the application and
3 the certificate from the other state as an application for registration
4 in this state if the application to the other state meets the following
5 criteria:

6 (1) It was submitted in the other state within six months next
7 preceding the submission of the application in this state, and the
8 applicant certifies that the information contained in the application
9 is current.

10 (2) It contains information substantially similar to or more
11 comprehensive than that required in an application submitted in
12 this state.

13 (3) It was signed by the applicant under penalty of perjury.

14 18912. (a) Except as otherwise provided in subdivision (b),
15 the department shall issue a certificate of registration to an
16 individual who complies with subdivision (a) of Section 18911 or
17 whose application has been accepted under subdivision (b) of
18 Section 18911.

19 (b) The department may refuse to issue a certificate of
20 registration if the department determines that the applicant has
21 engaged in conduct that has a significant adverse effect on the
22 applicant's fitness to act as an athlete agent. In making the
23 determination, the department may consider whether the applicant
24 has:

25 (1) Been convicted of a crime that, if committed in this state,
26 would be a crime involving moral turpitude or a felony.

27 (2) Made a materially false, misleading, deceptive, or fraudulent
28 representation in the application or as an athlete agent.

29 (3) Engaged in conduct that would disqualify the applicant from
30 serving in a fiduciary capacity.

31 (4) Engaged in conduct prohibited by Section 18930.

32 (5) Had a registration or licensure as an athlete agent suspended,
33 revoked, or denied or been refused renewal of registration or
34 licensure as an athlete agent in any state.

35 (6) Engaged in conduct the consequence of which was that a
36 sanction, suspension, or declaration of ineligibility to participate
37 in an interscholastic or intercollegiate athletic event was imposed
38 on a student athlete or educational institution.

39 (7) Engaged in conduct that significantly adversely reflects on
40 the applicant's credibility, honesty, or integrity.

1 (c) In making a determination under subdivision (b), the
2 department shall consider how recently the conduct occurred, the
3 nature of the conduct and the context in which it occurred, and
4 any other relevant conduct of the applicant.

5 (d) The term of a certificate of registration is two years from
6 the date of its issuance.

7 18913. (a) An athlete agent may apply to renew a registration
8 by submitting an application for renewal in a form prescribed by
9 the department. The application for renewal shall be signed by the
10 applicant ~~under penalty of perjury~~ and contain current information
11 on all matters required in an original registration.

12 (b) An individual who has submitted an application for renewal
13 of registration or licensure in another state, in lieu of submitting
14 an application for renewal in the form prescribed pursuant to
15 subdivision (a), may file a copy of the application for renewal and
16 a valid certificate of registration or licensure from the other state.
17 The department shall accept the application for renewal from the
18 other state as an application for renewal in this state if the
19 application to the other state meets the following criteria:

20 (1) It was submitted in the other state within six months next
21 preceding the filing in this state, and the applicant certifies the
22 information contained in the application for renewal is current.

23 (2) It contains information substantially similar to or more
24 comprehensive than that required in an application for renewal
25 submitted in this state.

26 (3) It was signed by the applicant under penalty of perjury.

27 (c) The term of the renewal of a certificate of registration is two
28 years from the date of its renewal.

29 18914. The department may issue a temporary certificate of
30 registration while an application for registration or renewal of
31 registration is pending.

32 18915. An application for a certificate of registration and an
33 application for renewal of a certificate of registration are public
34 records for the purposes of the California Public Records Act
35 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
36 Title 1 of the Government Code).

37 18916. (a) The department may suspend, revoke, or refuse to
38 renew a registration for conduct that would have justified denial
39 of registration under subdivision (b) of Section 18912.

(b) The department may deny, suspend, revoke, or refuse to renew a certificate of registration or licensure only after proper notice and an opportunity for a hearing. The proceedings under this subdivision shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Article 3. Agency Contracts

18920. (a) An agency contract shall be in a record, signed or otherwise authenticated by the parties.

(b) An agency contract shall state or contain the following:

(1) The amount and method of calculating the consideration to be paid by the student or professional athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services.

(2) The name of any person not listed in the application for registration or renewal of registration who will be compensated because the student or professional athlete signed the agency contract.

(3) A description of any expenses that the student or professional athlete agrees to reimburse.

(4) A description of the services to be provided to the student or professional athlete.

(5) The duration of the contract.

(6) The date of execution.

(c) Every agency contract in which a student athlete is a party shall contain, in close proximity to the signature of the student athlete, a conspicuous notice in boldface type in capital letters stating the following:

“WARNING TO STUDENT ATHLETE

IF YOU SIGN THIS CONTRACT:

(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT ATHLETE IN YOUR SPORT.

1 (2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72
2 HOURS AFTER ENTERING INTO THIS CONTRACT OR
3 BEFORE YOUR NEXT SCHEDULED ATHLETIC EVENT,
4 WHICHEVER OCCURS FIRST, BOTH YOU AND YOUR
5 ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC
6 DIRECTOR. FAILURE TO DO SO MAY RESULT IN
7 SIGNIFICANT CIVIL LIABILITY.

8 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14
9 DAYS AFTER SIGNING IT. CANCELLATION OF THIS
10 CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.”
11

12 (d) An agency contract that does not conform to this chapter is
13 voidable by the student or professional athlete. If a student or
14 professional athlete voids an agency contract, the student or
15 professional athlete is not required to pay any consideration under
16 the contract or to return any consideration received from the athlete
17 agent to induce the student or professional athlete to enter into the
18 contract.

19 (e) The athlete agent shall give a record of the signed or
20 otherwise authenticated agency contract to the student or
21 professional athlete at the time of execution.

22 18921. (a) Within 72 hours after entering into an agency
23 contract or before the next scheduled athletic event in which the
24 student athlete may participate, whichever occurs first, the athlete
25 agent shall give notice in a record of the existence of the contract
26 to the athletic director of the educational institution at which the
27 student athlete is enrolled or the athlete agent has reasonable
28 grounds to believe the student athlete intends to enroll.

29 (b) Within 72 hours after entering into an agency contract or
30 before the next athletic event in which the student athlete may
31 participate, whichever occurs first, the student athlete shall inform
32 the athletic director of the educational institution at which the
33 student athlete is enrolled that he or she has entered into an agency
34 contract.

35 18922. (a) A student athlete may cancel an agency contract
36 by giving notice of the cancellation to the athlete agent in a record
37 within 14 days after the contract is signed.

38 (b) A student athlete may not waive the right to cancel an agency
39 contract.

1 (c) If a student athlete cancels an agency contract, the student
2 athlete is not required to pay any consideration under the contract
3 or to return any consideration received from the athlete agent to
4 induce the student athlete to enter into the contract.

5
6 Article 4. Offenses and Enforcement
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8 18930. (a) An athlete agent, with the intent to induce a student
9 or professional athlete to enter into an agency contract, may not
10 engage in any of the following conduct:

11 (1) Give any materially false or misleading information or make
12 a materially false promise or representation.

13 (2) Furnish anything of value to a student or professional athlete
14 before the student or professional athlete enters into the agency
15 contract.

16 (3) Furnish anything of value to any individual other than the
17 student or professional athlete or another registered athlete agent.

18 (b) An athlete agent may not intentionally engage in any of the
19 following conduct:

20 (1) Initiate contact with a student or professional athlete unless
21 registered under this chapter.

22 (2) Refuse or fail to retain or permit inspection of the records
23 required to be retained by Section 18950.

24 (3) Fail to register when required by Section 18910.

25 (4) Provide materially false or misleading information in an
26 application for registration or renewal of registration.

27 (5) Predate or postdate an agency contract.

28 (6) Fail to notify a student athlete before the student athlete
29 signs or otherwise authenticates an agency contract for a particular
30 sport that the signing or authentication may make the student
31 athlete ineligible to participate as a student athlete in that sport.

32 (7) Fail to submit a first contact notification as required by
33 Section 18910.5.

34 (8) Cause a student athlete to engage in any conduct that may
35 result in sanctions, penalties, or disciplinary action imposed by a
36 national association for the promotion or regulation of college
37 athletics against the student athlete or educational institution.

38 18931. An athlete agent who violates Section 18930 is guilty
39 of a misdemeanor punishable by a fine not to exceed twenty-five
40 thousand dollars (\$25,000), by imprisonment in a county jail not

1 to exceed one year, or by both that fine and imprisonment. A court
2 may suspend or revoke the registration of any person convicted
3 of a criminal violation of this section.

4 18932. (a) A professional athlete, student athlete, or
5 educational institution has a right of action against an athlete agent
6 for damages caused by a violation of this chapter. In an action
7 under this section, the court may award to the prevailing party
8 costs and reasonable attorney's fees.

9 (b) Damages of a student athlete or educational institution under
10 subdivision (a) include losses and expenses incurred because, as
11 a result of the conduct of an athlete agent, the student athlete or
12 educational institution was injured by a violation of this chapter
13 or was penalized, disqualified, or suspended from participation in
14 athletics by a national association for the promotion and regulation
15 of athletics, by an athletic conference, or, in the case of an
16 educational institution, by reasonable self-imposed disciplinary
17 action taken to mitigate sanctions likely to be imposed by such an
18 organization.

19 (c) A right of action under this section does not accrue until the
20 professional athlete, student athlete, or educational institution
21 discovers or by the exercise of reasonable diligence would have
22 discovered the violation by the athlete agent.

23 (d) This chapter does not restrict rights, remedies, or defenses
24 of any person under law or equity.

25 18933. The department may assess a civil penalty against an
26 athlete agent not to exceed twenty-five thousand dollars (\$25,000)
27 for a violation of this chapter. The provisions of paragraphs (1),
28 (2), (4), and (5) of subdivision (b) of Section 125.9 apply to the
29 assessment of a civil penalty made under this section.

30 Article 5. Revenue

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33 18940. An application for registration or renewal of registration
34 shall be accompanied by a fee, the amount of which shall be
35 established by regulation promulgated by the department. This fee
36 shall be an amount that is sufficient to fund the costs of
37 administering this chapter and to repay the loan authorized pursuant
38 to Section 18942.

39 18941. All fees collected pursuant to Section 18940 and all
40 civil penalties collected pursuant to Section 18933 shall be

1 deposited into the Athlete Agent Registration Fund, which is hereby
2 ~~created. Notwithstanding Section 13340 of the Government Code,~~
3 ~~the created.~~ The department may expend, for the purposes of this
4 chapter, the moneys deposited into this fund pursuant to Section
5 18940. Any other expenditure from this fund may be made only
6 ~~upon~~ upon appropriation by the Legislature.

7 18942. In order to implement this chapter, the Director of
8 Finance shall approve a loan from the ~~General Labor Enforcement~~
9 ~~and Compliance~~ Fund to the department for startup costs, which
10 shall be repaid from the fee revenue collected pursuant to Section
11 18940. Funds loaned pursuant to this section shall be repaid on or
12 before July 1, 2014, together with interest calculated at a rate that
13 is equal to that earned by moneys invested in the Pooled Money
14 Investment Account.

15
16 Article 6. Miscellaneous
17

18 18950. (a) An athlete agent shall retain the following records
19 for a period of five years:

20 (1) The name and address of each individual represented by the
21 athlete agent.

22 (2) Any agency contract entered into by the athlete agent.

23 (3) Any direct costs incurred by the athlete agent in the
24 recruitment or solicitation of a student or professional athlete to
25 enter into an agency contract.

26 (b) Records required by subdivision (a) to be retained are open
27 to inspection by the department during normal business hours.

28 18951. By acting as an athlete agent in this state, a nonresident
29 individual appoints the department as the individual's agent for
30 service of process in any civil action in this state related to the
31 individual's acting as an athlete agent in this state.

32 18952. The department may issue subpoenas for any material
33 that is relevant to the administration of this chapter.

34 18953. This chapter modifies, limits, and supersedes the federal
35 Electronic Signatures in Global and National Commerce Act (15
36 U.S.C. Sec. 7001, et seq.), but does not modify, limit, or supersede
37 Section 101(c) of that act (15 U.S.C. Sec. 7001(c)) or authorize
38 electronic delivery of any of the notices described in Section 103(b)
39 of that act (15 U.S.C. Sec. 7003(b)).

1 18954. The provisions of this chapter are taken from the
2 Uniform Athlete Agents Act of 2000, drafted by the National
3 Conference of Commissioners on Uniform State Laws. In applying
4 and construing the provisions of this chapter, consideration shall
5 be given to the need to promote uniformity of the law with respect
6 to its subject matter among states that enact it.

7 18955. The department may, in accordance with Chapter 3.5
8 (commencing with Section 11340) of Part 1 of Division 3 of Title
9 2 of the Government Code, adopt, amend, and repeal any
10 regulations reasonably necessary for the purpose of administering
11 this chapter and consistent with this chapter.

12 18956. (a) The athlete agent shall establish a trust fund if the
13 athlete agent is the recipient of a professional athlete's salary. An
14 athlete agent who receives any payment on behalf of a professional
15 athlete shall immediately deposit the payment in a trust fund
16 account maintained by the athlete agent in a state or federally
17 chartered financial institution. The department may require an
18 athlete agent who receives any payment on behalf of a professional
19 athlete to post a surety bond in an amount established by regulation.

20 (b) The department may require proof of the validity of the trust
21 fund. The department may promulgate regulations defining the
22 standards to comply with this requirement.

23 18957. (a) (1) No athlete agent shall have an ownership or
24 financial interest in any entity that is directly involved in the same
25 sport as a student athlete whom the agent directly or indirectly
26 recruits or solicits to enter into an agency contract, or for whom
27 the athlete agent is attempting to negotiate an endorsement contract,
28 or professional sports service contract, or for whom the athlete
29 agent provides advice concerning potential or actual employment
30 as a professional athlete.

31 (2) An athlete agent shall disclose to a professional athlete the
32 agent's ownership or financial interest in any entity that is directly
33 involved in the same sport as the professional athlete with whom
34 the athlete agent has entered into an agency contract, or for whom
35 the athlete agent is attempting to negotiate an endorsement contract,
36 or professional sports service contract, or for whom the athlete
37 agent provides advice concerning potential or actual employment
38 as a professional athlete.

39 (b) If an athlete agent or athlete agent's representative or
40 employee provides financial services to a professional athlete or

1 student athlete or advises the athlete concerning investment of
2 funds, the athlete agent shall disclose to the athlete any ownership
3 interest the athlete agent, representative, or employee has in any
4 entity regarding which the athlete agent, representative, or
5 employee is providing financial services or giving advice, and any
6 commission the athlete agent, representative, or employee will
7 receive from the athlete's investment.

8 (c) No athlete agent shall divide fees with, or receive
9 compensation from, a professional sports league, team, or other
10 organization or its representatives or employees, which fees or
11 compensation are directly related to a professional sports services
12 contract or other representation of the league, team, or organization
13 as it directly relates to the employment of athletes for professional
14 sports services. No athlete agent shall offer or allow any full-time
15 employee of a union or players' association connected with
16 professional sports to own or participate in any of the revenues of
17 the athlete agent.

18 (d) No athlete agent or athlete agent's representative or
19 employee shall offer or provide money or anything of benefit or
20 value, including, but not limited to, free or reduced price legal
21 services, to any elementary or secondary school, college, university,
22 or other educational institution, or any representative or employee
23 of any of these educational institutions in return for the referral of
24 any clients.

25 (e) All forms of advertising used by an athlete agent within the
26 state shall include the name and business address of the athlete
27 agent.

28 18958. No athlete agent shall knowingly secure employment
29 for a person in any place where a strike, lockout, or other labor
30 trouble exists, without notifying the person of those conditions.

31 18959. (a) No athlete agent shall knowingly enter into a
32 contract containing any term or condition that, if complied with,
33 would be in violation of law, or attempt to fill an order for help to
34 be employed in violation of the law.

35 (b) No person shall owe an athlete agent any money or other
36 consideration pursuant to a professional sports services contract,
37 an endorsement contract, or a financial services contract negotiated
38 by the athlete agent if the athlete agent fails to comply with any
39 provision of this chapter. The athlete agent shall refund any money
40 or other consideration he or she received pursuant to that contract.

1 18960. The provisions of this chapter are severable. If any
2 provision of this chapter or its application is held invalid, that
3 invalidity shall not affect other provisions or applications that can
4 be given effect without the invalid provision or application.

5 ~~SEC. 5. This act shall become operative on July 1, 2011.~~

6 18961. *This chapter shall become operative on July 1, 2011,*
7 *except that Section 18933 shall become operative on January 1,*
8 *2012.*

9 ~~SEC. 6.~~

10 SEC. 5. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.